

REMARKS

Claims 1-4, 6 and 8-32, as amended, and new claims 33-34 are pending in this application. Claims 5 and 7 have been cancelled. Claims 1-4, 6, 8-13, 18, 19, 21-23 and 30 have been amended for the reasons given below.

It is noted that claims 1-31 have been mentioned in the office action, but there are actually 32 claims pending, and thus the applicant assumes that claim 32 has been treated in the same way as base claim 30.

The sections set forth below are presented in the same order as that contained within the Action for ease of reference.

The IDS filed 8/13/01

The applicant believes that the IDS filed on 8/13/01 fully complied with 37 CFR 1.98(a)(2) because legible copies of each U.S. and foreign patents were supplied. Nonetheless, filed herewith is a fresh IDS that includes copies of each of those references and that includes one additional reference which may or may not be prior art to the claims.

Claim Objections

Claims 11 and 12 were objected to for being attached. This was a computer error that is now remedied by the cosmetic amendment that has been made to separate claims 11 and 12 as shown herein. No new matter has been added. Thus, the applicant respectfully requests withdrawal of this objection.

Claim Rejections under 35 U.S.C. 102(b)

Claims 1-11 and 21-24 were rejected for allegedly being anticipated by Reber et al., U.S. Patent No. 5,798,694.

Independent claim 1 has been amended and now pertains to "a food package for delivering food or beverage forming product to a dispenser". Claims 2 and 4 have been amended to recite the preferred embodiments presented in paragraph 51 of the published application, while claims 5 and 7 have been cancelled. Dependent claims 3, 6, 8-11, and 21-23 have also been amended to replace the word "receptacle" with --package--. No new matter has been added. The food package is a receptacle having at least one wall member that defines an enclosure, and a food- or beverage-forming product is present within the enclosure. A tag is associated with the package, and the tag includes machine-readable information regarding the product. The tag has been "programmed at the manufacturing plant

and includes instructions in electronic form for at least one of preparation of the food product in the dispenser and a verification code for controlling the dispensing of food or beverage forming product in the dispenser".

Reber et al. discloses a system for storing and monitoring a food item 20 including a food storage apparatus 22 for containing the food item and a storage place 24 for storing the apparatus (see Fig. 1 and col. 2, lines 14-18). Reber et al. is generally directed to storage of food within a predetermined range of temperature or humidity, such as in a freezer or oven (see col. 3, lines 10-22). An electronic tag 30 is associated with the food storage apparatus 22, and contains a memory for storing storage-related information for a food item. Such information may include: (i) food item identification information; (ii) a time duration; (iii) the first time that a food item was placed in the storage apparatus; (iv) the last time the food item was in the storage apparatus; and (v) conditions sensed by at least one sensor (see col. 5. lines 40-49). Thus, the information contained within the tag is passive information that only provides an indication to a user regarding identification and/or storage conditions of the food item.

In contrast, claim 1 recites a food storage package that includes a tag that contains "instructions in electronic form for at least one of preparation of the food product in the dispenser and a verification code for controlling the dispensing of food or beverage forming product in the dispenser". The preparation instructions are read and executed by a dispenser in order to create a final food product and to dispense the food to a consumer (for example, see page 20, line 13 to page 21, line 23 of the present application). Similarly, when the information is a verification code, this code will be compared to a reference code. A verification signal is generated if the product is valid and then it may be prepared or dispensed. Otherwise, a verification signal is not generated, meaning that the product is incorrect, e.g., out of date, or perhaps has been tampered with, and thus dispensing will not occur (see, for example, page 24, lines 2-7 of the application). Such active instructions and operation are absent in the system disclosed in Reber et al., so that claim 1 is not anticipated.

In view of the above amendments and remarks, the applicant respectfully requests withdrawal of the 35 U.S.C. 102(b) rejection of claim 1. In addition, claims 2-4, 6, 8-11 and 21-24 all directly or indirectly depend on claim 1 and thus should also be allowable for at least the same reasons.

Nor would these claims be obvious over Reber et al., since the instructions and operations of the applicants' tag are used to prepare and dispense only authorized or authenticated food or beverage products, and Reber et al.'s tags cannot perform this function.

Claim Rejections under 35 U.S.C. 103

Claims 1-32 were rejected for allegedly being unpatentable over Clothier et al, U.S. Patent No. 6,444,961.

Clothier et al. pertains to food delivery systems designed to maintain food at a selected temperature over relatively long periods of time, and more particularly to magnetically heated thermal storage devices within a food-holding container. The storage device can be selectively heated within the container by an induction charging station (see col. 1, lines 13-20 of Clothier et al.). A pizza system is described, wherein a flexible bag sized to hold a pizza box includes an induction heating element. A cooktop-mounted RFID reader can be configured to sense an RFID tag associated with the bag (See col. 7, lines 32-35). A temperature control sequence to heat the bag is then initiated depending on the size of the bag, so that different sizes and configurations of bags can be used. In addition, use of the RFID tag allows a business owner to determine the number of delivery trips for each bag, the duration of such trips, and delivery performance information (See col. 24, lines 14-33). Consequently, the tag is associated with a bag, and contains information about the bag specifications and not to the food product that is contained in the bag. In particular, there is no information about the food product that can effect the performance or control of the induction charging station.

Claim 1 of the present application recites a food package having a tag that includes machine-readable information regarding the product. Moreover, the tag is programmed at the manufacturing plant to include instructions for at least one of preparation of the food product in the dispenser and a verification code for controlling the dispensing of food or beverage forming product in the dispenser. Thus, the tag is programmed at the time that the food package is manufactured, and is associated both with the package and the contents of the package. Clothier al. does not suggest or teach this feature, and thus claim 1 is patentably distinct thereover. Furthermore, since dependent claims 2-4, 6, 8-11 and 21-29 all directly or indirectly depend on claim 1, these claims should be allowable for at least the same reasons.

Independent claim 12 recites a method of dispensing a food or beverage. The method includes encoding instructions at a manufacturing plant for preparation of the food or beverage on a machine-readable tag associated with a package and its contents. Clothier et al. does not teach or suggest such a technique, and thus claim 12 is patentably distinct thereover.

Independent claim 13 recites a method of controlling the dispensing of a food or beverage product from a food-forming or beverage-forming product. The method includes

encoding a verification code on a machine-readable tag associated with a food package and its contents at a manufacturing plant, placing the package in or close to a dispenser, reading of the machine-readable tag by the dispenser prior to preparation or dispensing of the food or beverage, and comparing the verification code read from the machine-readable tag with a list of valid verification codes, wherein the food or beverage is prepared or dispensed when the verification code read from the machine-readable tag matches a valid verification code from the list. Clothier et al. does not teach or suggest any of these elements of the technique, and thus claim 13 is patentably distinct thereover. Since claims 14-19 all directly or indirectly depend on claim 13, they should also be allowable for at least the same reasons.

Independent claim 18 recites a method of determining consumption of foods or beverages from a dispenser. The method includes recording information on a machine-readable tag associated with a package and its contents, updating a computer database with the recorded information, reading of the machine-readable tag by the dispenser when the food or beverage is dispensed, updating the computer database with information about the foods or beverages that are dispensed, and sorting the information to determine consumption patterns for the foods or beverages that are dispensed. Clothier et al. fails to suggest or teach a method for collecting, retrieving and sorting such historical information, and thus claim 18, and dependent claims 19 and 20 are patentably distinct thereover.

Independent claim 30 recites a system for authenticating and dispensing a prepared product, that includes a plurality of food packages. A machine-readable tag is associated with each package and its contents. The system includes a mechanism for extracting the food- or beverage-forming product from each package and preparing a food or beverage from food- or beverage-forming product(s), a device for reading the machine-readable tag, and a processor operatively coupled to the device and the mechanism. The processor is configured to collect information from the machine-readable tag from the device for reading the machine-readable tag, compare the collected information with a pre-determined quality indicia, control the mechanism to extract and prepare the food or beverage when the collected information matches the pre-determined quality indicia, and prevent the mechanism from extracting or preparing the food or beverage when the collected information does not match the pre-determined quality indicia. Clothier et al. does not teach or suggest such a system, but only describes a heating system that does not have any extraction or preparation mechanism. Furthermore, Clothier et al. does not suggest or teach to prevent a mechanism from extracting or preparing a food or beverage in response to information collected from the

tag of the package. Thus, claim 30 and dependent claims 31 and 32 are patentably distinct thereover.

New claims 33 and 34 are supported by the specification, e.g., at paragraphs 58 and 76, of the printed publication. These claims are allowable for at least the same reasons as claim 30.

In view of the above amendments and remarks, the applicant respectfully requests withdrawal of all of the 35 U.S.C. 103 rejections of claims 1-32.

No fee is believed to be due for the claim changes of this amendment.

In view of the above amendments and remarks, the applicant respectfully requests favorable reconsideration and allowance of the application.

Respectfully submitted,

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Allan A. Fanucci      Reg. No. 30,256

WINSTON & STRAWN  
CUSTOMER NO. 28765

(212) 294-3311

NY:769767.1